



JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

www.courts.ca.gov/auditcommittee.htm
auditcommittee@jud.ca.gov

AUDITS AND FINANCIAL ACCOUNTABILITY COMMITTEE

OPEN MEETING WITH CLOSED SESSION AGENDA

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

OPEN PORTION OF THIS MEETING IS BEING RECORDED

Date: March 28, 2019
Time: 12:15 – 1:15 PM
Public Call-In Number: 1-877-820-7831; Public Listening Code 4045700

Meeting materials for open portions of the meeting will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Opening Comments by the Chair and Vice-Chair

Presenter(s)/Facilitator(s): Hon. Judge Rosenberg—Chair; Hon. Presiding Justice
Siggins—Vice Chair

Approval of Minutes

Approve minutes of the February 8, 2019, Audit Committee meeting.

Approve minutes of March 5, 2019 action taken by e-mail

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Written Comment

In accordance with California Rules of Court, Rule 10.75(k) (1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to auditcommittee@jud.ca.gov or mailed or delivered to Judicial Council of California, Audit Services, 455 Golden Gate Avenue, 5th Floor, San Francisco, California 94102 attention: Audit Services. Only written comments received by 12:15 pm on March 27th, 2019 will be provided to advisory body members prior to the start of the meeting.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1

Report from Audit Services

Overview of Audit Services' work in progress as well as a summary of external audits being performed by other governmental agencies.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

Info 2

General Discussion by Members of the Committee

Open discussion by committee members regarding any topic within the scope and purview of the Advisory Committee for Audits and Financial Accountability for the Judicial Branch.

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

IV. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-4)

Item 1

Budget Change Proposal - Concept (Action Required)

Review and approve the proposed Budget Change Proposal Concept for funding trial court audits pursuant to Government Code, Section 77206(h).

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

Item 2

External Audit Report – State Controller's Office (Action Required)

Review and approve for posting the State Controller's recent audit report concerning Sonoma Superior Court. The State Controller is required to audit the trial courts' adherence to state rules concerning the revenues, expenditures, and fund balances under their control, per Government Code, Section 77206(h).

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

V. ADJOURNMENT

Adjourn to Closed Session

VI. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))

Item 3

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of the 4th District of the Courts of Appeal for public posting, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Robert Cabral, Manager – Judicial Council's Audit Services

Item 4

Draft Audit Report – Rule of Court 10.75(d) (6) (Action Required)

Non-final audit reports or proposed responses to such reports

Review and approve Audit Services' draft audit report of Merced Superior Court's administration of Court Innovations Grant Program, per Rule of Court 10.63(c)(1).

Presenter(s)/Facilitator(s): Grant Parks, Principal Manager – Judicial Council's Audit Services

VII. ADJOURNMENT

Adjourn the meeting



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MINUTES OF OPEN MEETING WITH CLOSED SESSION

February 8, 2019
12:15 p.m. - 1:15 p.m.
Conference Call

Advisory Body Members Present: Hon. David Rosenberg, Hon. Peter Siggins, Hon. Susan Matcham, Hon. Mary Ann O'Malley, Ms. Sherri Carter, Mr. Kevin Lane,

Advisory Body Members Absent: Mr. Kevin Harrigan, Ms. Tania Ugrin-Capobianco, Mr. Phil Jelcich (non-voting advisory member)

Others Present: Mr. Grant Parks, Mr. Robert Cabral, Mr. Brian Cotta (CEO - 5th DCA), Cindia Martinez (CEO – Glenn Superior Court)

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:15 p.m., and took roll call.

Approval of Minutes

Judge O'Malley moved to approve the minutes of the December 5, 2018 meeting. Justice Siggins seconded the motion. There was no further discussion of the minutes. Motion to approve passed by unanimous voice vote of the committee members present.

DISCUSSION AND ACTION ITEMS

Info Item 1

Report from Audit Services

Mr. Parks informed the committee that audit staff performed work at San Benito Superior Court and the 4th District Court of Appeal during the months of December and January. On a separate project, auditors have substantially completed their review of Merced Superior Court's video conferencing grant (funded through Court Innovations Grant (CIG) Program). Auditors will be sharing the draft CIG report with Merced for its review and comments. Mr. Parks expects the CIG audit report to be ready for the audit committee at its next meeting. In terms of staffing, Audit Services expects to have an additional vacancy, which will reduce the number of audit staff down to six individuals who work on appellate and superior court audits.

As for the external audits, the State Controller's Office (SCO) is currently interviewing accounting staff and testing transactions at the Judicial Council's offices in San Francisco. The SCO's review is part of its biennial audit of the

revenues, expenditures and fund balances under the Judicial Council's control (pursuant to Govt Code, Section 77206(i)). Mr. Parks expects the report to come before the audit committee sometime in the spring.

Finally, in response to prior actions taken by the audit committee, Judicial Council staff met with Susan Miller (CEO-6th DCA) to discuss possible approaches to developing a branch-wide policies and procedures manual for the appellate courts. Also, in response to the audit committee's April 2018 letter regarding JBSIS data quality, on February 1st CEAC approved data quality standards for JBSIS reporting. CEAC has established a 2% tolerable error threshold, beyond which courts are expected to report corrected data within 60 days of discovering the errors.

Info Item 2.

General Discussion by Members of the Committee

Judge David Rosenberg asked approximately how long it could take to fill a vacant auditor position. Mr. Parks shared that it will depend on a variety of factors, such as: the available candidate pool; competitiveness in the job market; and budget considerations.

Mr. Lane (CEO - 4th DCA) reported that the Courts of Appeal intend to submit a letter responding to the audit committee's request that it develop branch-wide policies and procedures. Mr. Lane expected the letter to be sent to the audit committee before its next meeting.

Action Item 1

External Audit Reports – State Auditor's Office (Action Required)

Mr. Parks presented this item, noting the audit is required pursuant to Public Contract Code, Section 19210. The State Auditor's procurement audit of the superior courts evaluates whether select courts followed procurement rules that are "*substantially similar to*" the State's contracting requirements. This year, the State Auditor evaluated the superior courts for the counties of:

- Imperial
- Los Angeles
- Monterey
- Santa Barbara
- Santa Clara

Overall, Mr. Parks characterized the State Auditor's overall conclusions as positive, while providing some recommendations on how these courts can improve. Specifically, the State Auditor's report outlined various issues, including: weaknesses in how courts justify using "sole-source" vendors; inconsistent application of the "3-point match" process when paying vendor invoices; and instances of non-compliance with the Judicial Council's daily and transactional limits over purchase card transactions. Most of the courts agreed with the State Auditor's findings and recommendations, while Los Angeles disputed some of the report's conclusions.

Judge Matcham asked if audits performed by the Judicial Council's Audit Services overlap with the State Auditor's procurement audit, and if so what is the relationship between these two audits. Mr. Parks replied that both audits look at procurement. However, Mr. Parks explained that Audit Services will curtail or eliminate its review of a specific court's procurement practices if the State Auditor had recently audited that same court.

Judge Rosenberg asked if there is anything arising from the State Auditor's review that should be communicated to the superior courts through an audit advisory. Mr. Parks commented that recent changes to the Judicial Branch Contracting Manual (JBCM) revised the definition of a "sole-source" vendor, and that it may be helpful to remind courts of the revised definition. Mr. Parks also offered to develop an audit advisory that address potential risks in the court procurement process overall, based on both the State Auditor's report and Audit Services' prior audit experience at the courts. Judge Rosenberg asked committee members if they had thoughts on whether to issue an audit advisory on court procurement practices. Ms. Sherri Carter suggested it was a good idea to remind CEOs of the judicial branch's procurement requirements. Judge O'Malley also supported the idea and suggested the advisory be sent to presiding judges (as a cc) as well. Mr. Parks said he would draft the audit advisory and share it with audit committee members prior to release.

Presiding Justice Siggins asked Mr. Parks whether he agreed with the State Auditor's conclusion in areas of the report where the State Auditor and Los Angeles Superior Court had disagreed. Specifically, the State Auditor had criticized Los Angeles for not comparing vendors' prices, even though both vendors were on a pre-approved vendor list that the court had created through a competitive process. Los Angeles had argued that all vendors on the pre-approved list were already deemed cost effective, and courts need not compare prices again. Mr. Parks stated he believes Los Angeles' approach was correct from a technical standpoint and doesn't see where the court failed to follow judicial branch procurement rules. Nevertheless, Mr. Parks believed the State Auditor's finding is trying to highlight a best practice of always comparing prices (even when doing so is not required).

Sherri Carter (CEO – Los Angeles) and Judge Matcham (Monterey) asked that any motion to approve the State Auditor's report for public posting be split so they can abstain from voting on matters pertaining to their respective courts. Judge Rosenberg agreed to the request.

Action: Ms. Carter moved to approve the portion of the State Auditor's report concerning Imperial, Monterey, Santa Barbara and Santa Clara counties for public posting (seconded by Presiding Justice Siggins). The motion passed by unanimous voice vote of the committee members present (Judge Matcham from Monterey abstained).

Action: Judge O'Malley moved to approve the portion of the State Auditor's report concerning Los Angeles for public posting (seconded by Judge Matcham). The motion passed by unanimous voice vote of the committee members present (Ms. Carter from Los Angeles abstained).

Action Item 2

External Audit Report – Department of Child Support Services

Mr. Parks presented this item and reminded audit committee members that they had previously approved audits performed by the Department of Child Support Services (DCSS) concerning the AB 1058 program. This audit of San Luis Obispo's AB 1058 program is consistent with those prior audits. Specifically, DCSS auditors found problems with court recordkeeping (i.e. timesheets), but DCSS is not seeking recovery of the questioned costs. Further, the Judicial Council's staff from the Center for Families, Children and the Courts (CFCC) is working with DCSS to develop alternative time keeping methods for courts to use when charging personnel costs to the AB 1058 program.

Action: Ms. Carter moved to approve this report for posting (seconded by Judge Matcham). The motion passed by unanimous voice vote of the committee members present.

ADJOURNMENT

There being no further open meeting business, the meeting was adjourned to closed session at 12:45 p.m.

CLOSED SESSION

Item 3

Draft Audit Report of the Superior Court of California, County of Glenn– Rule of Court 10.75(d) (6) *Non-final audit reports or proposed responses to such reports*

The committee's members discussed the draft audit of Glenn Superior Court.

Action: Judge O'Malley moved to approve this report for posting (seconded by Justice Siggins). The motion passed by unanimous voice vote of the committee members present.

Item 4

Draft Audit Report of the of the 5th District of the Courts of Appeal– Rule of Court 10.75(d) (6) (Action Required) *Non-final audit reports or proposed responses to such reports*

The committee's members discussed the draft audit report for Ventura Superior Court.

Action: Judge O'Malley moved to approve this report for posting (seconded by Mr. Lane). The motion passed by unanimous voice vote of the committee members present.

Adjourned closed session at 1:15 p.m.

Approved by the advisory body on March 28, 2019.



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MINUTES OF ACTION TAKEN BY E-MAIL

March 5, 2019

Action Taken by E-mail

Advisory Body Members Present: Hon. David Rosenberg, Hon. Peter Siggins, Hon. Susan Matcham, Mr. Kevin Harrigan, Mr. Kevin Lane, Ms. Tania Ugrin-Capobianco

Advisory Body Members Absent: Hon. Mary Ann O'Malley, Ms. Sherri Carter

Others Present: Mr. Grant Parks

ACTION TAKEN BY EMAIL

Based on the committee chair's determination that prompt action is needed—pursuant to California Rules of Court, Rule 10.75(o)(1)(B)—the committee took action on March 5, 2019 via e-mail on the following action item.

Motion: To replace Modoc Superior Court with Santa Cruz Superior Court on the annual audit plan for fiscal year 2018-19 (with Modoc to be placed on the FY 2019-20 audit plan).

Rationale: Judicial Council audit staff made this request to the committee given the dangerous driving conditions (i.e. snow and ice) when traveling to Modoc. Prompt action is needed since a delay will result in loss of about 3-4 weeks of audit time.

Vote: Motion passes (6 yes, 2 not voting)

Judge Rosenberg	Yes
Presiding Justice Siggins	Yes
Judge Matcham	Yes
Judge O'Malley	Not voting
Sherri Carter	Not voting
Tania Ugrin-Capobianco	Yes
Kevin Lane	Yes
Kevin Harrigan	Yes



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Meeting Date: 03/28/2019

Informational Item #1 – (No Action Required)

Report from Audit Services

Status Update – Judicial Council’s Audit Services

Staffing & Workload

Audit staff spent February and March performing audit work at the 4th DCA and San Benito. We also contacted San Francisco and Santa Cruz superior courts to begin those audit assignments, while another audit team traveled to Riverside Superior Court to begin an audit of their Court Innovations Grant (CIG) project. Today, the audit committee will review our audits of the 4th DCA and Merced’s Court Innovations Grant (which will be the sixth and seventh audit reports we’ve completed this year).

Committee staff have consulted with the chair and vice-chair regarding the meeting schedule, and the plan is to proceed with quarterly committee meetings going forward with special ad-hoc meetings as needed. This will generally allow members to have more notice of upcoming meetings for scheduling purposes. Given this approach, the committee can anticipate the following schedule. We will be polling member’s availability for these remaining meetings soon.

Late June

- San Benito
- State Controller’s Audit of Judicial Council
- San Francisco
- Santa Cruz (replaces Modoc)
- Riverside (Court Innovations Grant)
- FY 19-20 Audit Plan Approval

Mid-July – Special Meeting

- Review and approve changes to Judicial Branch Contracting Manual (JBCM)

Late September

- Trinity
- Modoc

- Court TBD

Upcoming External Audits

State Controller's Office (SCO)

Audit of Judicial Council

SCO auditors are currently conducting interviews and reviewing accounting transactions at the Judicial Council's offices in San Francisco. Similar to their court audits, SCO is evaluating whether the Judicial Council followed applicable state rules when managing the revenues, expenditures, and fund balances under its control (per GC 77206(i)). The SCO expects to complete its audit of the Judicial Council in April (to be discussed at the June 2019 meeting).

Audit Program of the Trial Courts – Beyond the Pilot Audits

On March 18, 2019, the Judicial Branch Budget Committee (JBBC) voted to approve a funding request to cover the expenses of the SCO's audits of the superior courts per Government Code, Section 77206(h). These audits evaluate court compliance with state rules regarding the revenues, expenditures and fund balance under each court's control. Based on the pilot audits completed, the SCO estimated annual ongoing costs of roughly \$1.6 million (for 14-15 audits per year). Action item #1 on today's agenda will have you review the budget proposal concept so that it can be provided to the JBBC in May 2019 for further consideration. If ultimately approved by the Judicial Council, this funding proposal will be forwarded to the Department of Finance for consideration in the Governor's Proposed Budget for FY 20-21.

Miscellaneous Updates

Audit Advisory on Court Procurement Practices

On March 8, 2019, Audit Services issued an audit advisory on court procurement practices. This advisory was requested by the audit committee and is attached for the committee's reference (see ***Attachment A***). All audit advisories, along with self-assessment checklists created by Audits Services, are posted on the Judicial Resources Network at:

JRN / Programs & Court Administration / Budget Services / Audits

- Audit Tips – (Audit Advisories)
- Self-Assessment Checklists

Response to Audit Committee by the Courts of Appeal

On March 6th, the Courts of Appeal responded to the audit committee's August 2018 letter regarding the appellate court manual. The response is contained in ***Attachment B*** and the committee's original letter is in ***Attachment C***.



JUDICIAL COUNCIL OF CALIFORNIA

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AUDIT ADVISORY

Date	Action Requested
March 8, 2019	Informational
To	Deadline
Presiding Judges of the Superior Courts Court Executive Officers of the Superior Courts	N/A
From	Contact
Grant Parks Principal Manager, Audit Services	Grant Parks Audit Services 916-263-1321 phone Grant.Parks@jud.ca.gov
Subject	
Audit Advisory #2019-1, Court Procurement Practices	

The Judicial Council's Office of Audit Services (Audit Services) periodically communicates audit guidance and/or best practices via memorandum to the superior courts (courts) for their consideration. By periodically issuing these memorandums, Audits Services and the Advisory Committee on Audits and Financial Accountability (audit committee) hope to: (1) highlight common areas of risk or best practices; (2) explain the Judicial Council's criteria on the issues, if applicable; and (3) provide the courts with an opportunity to review their local practices—prior to an audit—so they can improve or strengthen their processes and/or internal controls. The sections that follow provide further background, a description of this issue(s), and recommendations for consideration by each court's executive management team.

Background

Issue Area: Procurement Practices

Sub-Area: various

Applicable Criteria: as referenced below

Description of the Issues

Both Audit Services and the State Auditor's Office review the superior courts' compliance with the California Judicial Branch Contract Law¹ and the Judicial Branch Contracting Manual (JBCM). Audit Services also considers relevant requirements from the Trial Court Financial Policies and Procedures Manual (FIN Manual) that are applicable to the courts' procurement and vendor payment processes.

During its meeting in February 2019, the audit committee considered various audit findings reported by the State Auditor in its biennial audit of court procurement practices. Committee members also reflected on audit findings previously reported by Audit Services. Ultimately, the audit committee thought it best to issue this audit advisory to remind the superior courts of the potential risks associated with their procurement activities. This audit advisory is based on Audit Services' interpretations of the JBCM, the FIN Manual, and other applicable criteria. The guidance offered in this advisory does not replace the authoritative criteria found in the foregoing and other sources, and is not intended to be an exhaustive discussion of potential audit issues. Each superior court is ultimately responsible for managing its local procurement practices in a manner consistent with the judicial branch's procurement standards and requirements.

This advisory covers the following procurement practices that may be areas of high-risk at your court.

- Purchase Requisitions
- Competitive Procurement – Solicitation Method (RFQ, IFB, RFP)
- Competitive Procurement – Advertising Requirements
- Competitive Procurement – Vendor Selection and Procurement File
- Prohibition on Contract Splitting
- Sole-Source Vendors
- Vendor Payment Process – Three-Point Match
- Vendor Payment Process – Authorization to Pay
- Purchase Card Transactions – Transactional and Daily Limits

In the sub-sections that follow, this advisory identifies specific areas where each court's executive management team may wish to review their local procurement practices for potential weaknesses and areas for improvement. Each sub-section reviews the applicable criteria, identifies potential areas of risk, and provides recommendations for each court's consideration.

¹ The California Judicial Branch Contract Law is codified within the Public Contract Code, sections 19201 – 19210.

Purchase Requisition Approval

Criteria: JBCM Chapter 2, Section 2.1(c)
FIN Manual Policy 6.01: Sec. 6.1(1); Sec 6.3

Process: The purchase requisition process is designed to ensure court resources are not spent on procurement efforts before the court has concluded whether: (1) a legitimate business need exists for the purchase; and (2) that the funds necessary for the purchase are available. The procurement process often begins with a “requestor” who submits the purchase requisition clarifying what he or she is attempting to purchase—and why—along with the proposed accounting and budget codes demonstrating that funds are available. Following submission, the requisition “approver” will review the stated business need for the transaction and will verify sufficient funds are available. If approved, the “approver” will forward the requisition to the court’s “buyer” to continue the procurement process.

Why it matters: A well-functioning requisition process prevents a single person from unilaterally deciding whether a given purchase is appropriate and ensures the segregation of duties. Further, courts can avoid the time and costs associated with: preparing solicitation documents; advertising; comparing bids; and handling vendor selection or protest issues if the underlying requisition is denied (and thus the procurement effort is cancelled upfront) either because there is no need for the purchase or due to insufficient funding.

Risks: Courts do not consistently follow a requisition process and instead the first approval by court management is when the purchase order or contract is presented for signature and execution. This can be particularly problematic for high-cost or high-risk procurements where time and effort have already been spent to prepare the solicitation and to select the vendor.

Recommendation: To ensure the purchase requisition is consistently followed and the court’s management approves of all planned procurement activity, court managers should review their local purchase requisition procedures. Court managers should also consult the suggested guidelines for delegating the “approver” function for purchase requisition reviews (per FIN 6.01, Sec. 6.3).

Competitive Procurement – Solicitation Method Used (RFQ, IFB, RFP)

Criteria: JBCM Chapter 4A (Non-IT Goods), Step 4
JBCM Chapter 4B (Non-IT Services), Step 5
JBCM Chapter 4C (IT Goods and Services), Step 4

Process: Requests for Quote (RFQ), Invitations for Bid (IFB) and Requests for Proposal (RFP) are different solicitation methods that can be used when seeking a vendor through competition. The JBCM provides guidance on when it is appropriate to use each approach, which is influenced by the types of goods or services to be acquired and their expected costs. Each solicitation method also has different requirements that affect later stages of the procurement process, influencing factors such as: the number of bids required to demonstrate competition was achieved; the manner in which the bids received are handled prior to bid opening; and the public noticing of the court's intent to award a contract to the winning bidder. A high-level summary of these three different methods is provided in Appendix A at the end of this audit advisory. Based on the JBCM, these three approaches are briefly summarized below:

Request for Quote (RFQ)

- Only acceptable to use when procurement value is equal to or less than certain limits (such as those established in the JBCM or by the court).
- Based on the JBCM's suggested limits for RFQs, a court using this approach is often not required to advertise the solicitation.
- To demonstrate that competition was achieved, courts can have less than three bids (and sometimes need only one bid if the court deems it "fair and reasonable").²
- Courts are not required to post a "Notice of Intent to Award" when using an RFQ.

Invitations for Bid (IFB)

²The JBCM does not define the "fair and reasonable" standard and each court uses its own judgement. Court procurement officials may wish to consult the State Contracting Manual, Volume 2, section 5.7.1 for various techniques that can be used when determining fair and reasonable pricing.

- No limits on when an IFB can be used, but advertising requirements may apply depending on procurement value.
- Method involves identifying minimum requirements that must be met for a bid to be deemed “responsive” to the solicitation.
- Bids are sealed when received and then publicly opened.
- Court awards contract to the lowest responsive bid from a responsible (i.e. capable) bidder.
- Courts are required to post a “Notice of Intent to Award.”

Requests for Proposal (RFP)

- No limits on when an RFP can be used, but advertising requirements may apply.
- Method involves scoring proposals using criteria developed in advance by an evaluation team.
- Bid evaluation is a multi-step process, and bids are kept confidential until the scoring process is completed.
- Courts are required to post a “Notice of Intent to Award.”

Why it matters: The higher the risk and dollar value of a given procurement, the more effort should be expended by the court to ensure its procurement needs are clearly defined and bidder competition is maximized to help reduce cost, ensure best value, or both.

Risks: The RFQ process is the least stringent of all solicitation methods (see Appendix A of this advisory), and the courts’ use of this method should be limited to low-value, low-risk procurements. The JBCM has established RFQ thresholds, beyond which the estimated value of a given procurement would be too high to justify the court’s use of an RFQ solicitation. However, the JBCM provides courts with the discretion to increase the RFQ threshold—beyond the amounts

suggested in the JBCM—if the court: (1) deems it appropriate to do so; and (2) maintains “adequate oversight over larger-value RFQs.”

Courts might overly favor the RFQ approach for high-value procurements because of the fewer requirements pertaining to: advertising; the number of bids received; and the public noticing of the court’s intent to award. Further, a court’s potential overuse of an RFQ may be facilitated by the court creating its own higher RFQ thresholds, or by court managers who are otherwise unaware of the suggested limits defining when the use of an RFQ is appropriate. Audit Services has encountered examples when courts have used RFQs for procurements that greatly exceed \$100,000 without the court documenting / establishing alternative RFQ limits.

Recommendations: To ensure courts do not overly rely on the RFQ process for procurements that are perhaps more prudently addressed through an IFB or RFP solicitation, court executive officers may wish to review samples of their court’s recent high-value RFQs, if any, for appropriateness. For each court that has established RFQ thresholds in their local contracting manual that exceed the amounts suggested by the JBCM, the court executive officer and/or presiding judge may wish to re-evaluate whether their court’s higher RFQ thresholds are prudent, reasonable, and serve to maximize competition and transparency for high-value procurements.

Competitive Procurement – Advertising Requirements

Criteria: JBCM Chapter 4A (Non-IT Goods), Step 6
JBCM Chapter 4B (Non-IT Services), Step 7
JBCM Chapter 4C (IT Goods and Services), Step 7

Process: The JBCM states: “Competition is one of the basic tenets of procurement under the California Judicial Branch Contract Law.” Advertising court solicitations can help to increase competition among bidders, which also helps courts to maximize their limited financial resources. The JBCM defines procurement value thresholds, beyond which advertising is generally required. Those thresholds are based on the types of goods or services being acquired as summarized below:

Chapter 4A (Non-IT Goods): Greater than \$50,000
Chapter 4B (Non-IT Services): \$10,000 or more

Chapter 4C (IT Goods and Services): \$100,000 or more, or when services are \$10,000 or more

For non-IT goods (Chapter 4A), a court's solicitation may also involve the delivery of services that are "incidental" to the overall purchase. In those cases, the JBCM still encourages courts to advertise if the services component equals or exceeds \$10,000. However, the court's management may waive this requirement if—in its sole discretion—it determines the costs of advertising are not worth the expected benefits.³ For other purchases that are covered under JBCM Chapters 4B (Non-IT Services) and 4C (IT Goods and Services), advertising is always required when the "services" component equals or exceeds \$10,000. However, the JBCM allows courts to exempt itself from advertising requirements if it determines it has a compelling reason to do so.⁴

Finally, courts that adopt the JBCM's suggested procurement limits on RFQs generally do not need to advertise solicitations using this approach. However, for courts that create higher court-specific RFQ thresholds, they are still bound by the JBCM's advertising requirements.⁵ The judicial branch's advertising requirements are based on the value of the procurement and the types of goods and services being acquired and is not based on the method of solicitation (i.e. RFQ, IFB, RFP).

Why it matters: Advertising promotes competition and ultimately may contribute to lowering the court's costs. Widely and vigorously advertising court procurement opportunities to potential bidders also helps demonstrate the court's prudent use of public funds.

Risks: Court procurement staff may be unaware of the JBCM's requirements for advertising, and then neglect to do so for high-value procurements. Alternatively, court officials may incorrectly believe that its RFQ solicitations are always exempt from advertising when these exemptions are instead based on procurement value and what is being acquired, regardless of the court's chosen solicitation method (e.g. RFQ, IFB, or RFP).

³ See JBCM Chapter 4A, page 11 (*Non-IT Goods*)

⁴ See JBCM, Chapter 4, section 4.1(D)(6)

⁵ For *Non-IT Goods* see JBCM, Chapter 4A, page 7, footnote #3. For *Non-IT Services*, see JBCM, Chapter 4B, page 11, footnote #3. For *IT Goods and Services* see JBCM Chapter 4C, page 16, footnote #5.

Finally, the JBCM provides each court with the ability to exempt itself from the JBCM’s advertising requirements “if there is a compelling reason to do so... [such as when] advertising would not produce more prospective bidders.”⁶ Audit Services believes courts should use this exemption sparingly and notes that advertising may result in the identification of vendors the court was unaware of previously. The JBCM cites several examples of advertising techniques, some of which are as simple as posting the procurement opportunity on the court’s web site. Advertising can also help the court justify proceeding with selecting a vendor when the court did not first receive the suggested number of bids to demonstrate that it had achieved competition.⁷

Recommendation: To ensure advertising requirements are consistently followed—especially for courts that have created their own higher thresholds for RFQ solicitations—each court executive officer may wish to have his or her procurement staff demonstrate or explain how the court advertises high-value RFQ solicitations.

To ensure courts are not exempting themselves from advertising requirements unnecessarily, each court executive officer may wish to review with court staff the appropriateness and frequency of their use of the advertising exemption cited in JBCM, Chapter 4, section 4.1(D)(6).

Competitive Procurement –Vendor Selection and Procurement File

Criteria: JBCM Chapter 2 (Procurement Planning)
JBCM Chapter 4 (Competitive Solicitation Overview)
JBCM Chapter 4A (Procurement of Non-IT Goods)
JBCM Chapter 4B (Procurement of Non-IT Services)
JBCM Chapter 4C (Procurement of IT Goods and Services)

Process: The JBCM encourages courts to create a procurement file for each transaction to document the key events and decisions made throughout the procurement process. Consistent, high-quality documentation helps the transaction be easily understood by those who are unfamiliar with the court’s procurement practices,

⁶ See JBCM, Chapter 4, sub-section 4.1(D)(6)

⁷ For *Non-IT Goods* see JBCM Chapter 4A, step 9 regarding IFB solicitations. For *Non-IT Services*, see JBCM Chapter 4B, step 11 regarding IFB and RFP solicitations. For *IT Goods and Services* see JBCM Chapter 4C, step 12 regarding IFB and RFP solicitations (e.g. keeping records of those firms solicited for bids).

while also making documents easy to locate for court officials when responding to public inquiries or an audit. The degree of documentation and level of detail is subject to each court's discretion, and generally varies based on the cost, risk, and complexity of each procurement solicitation. In general, the JBCM recommends that each transaction's procurement file contain information on:

- The court's strategy for accomplishing the procurement, including decisions made for promoting and sustaining competition
- The court's justification for not pursuing competition, if applicable
- Evidence of advertising, if applicable
- The court's solicitation documents (e.g. RFQ, IFB, RFP)
- Documentation of the bids received in response to the solicitation
- The court's rationale for selecting the winning bidder

The JBCM also encourages courts to prepare and maintain a "procurement summary" sheet within the procurement file. The summary sheet consolidates, in one place, the significant facts, events and decisions leading up to vendor selection and contract execution. Examples of the types of information that should be included on the procurement summary include but are not limited to: documentation of the prices offered by bidders; an explanation of how the court's selection of a vendor was consistent with the selection process defined in solicitation document; and the evaluation team's scoring sheets, if applicable (i.e. when an RFP solicitation method is used).⁸ JBCM guidance devoted to particular procurement types (e.g. JBCM Chapters 4A, 4B, and 4C) also encourage courts to prepare and maintain procurement summary sheets.⁹

Why it matters: Each court should be able to clearly and easily demonstrate that it followed the appropriate vendor selection process based on the solicitation's requirements and the bids received. A court should not have to reconstruct the events leading up to contract award upon a bidder's protest or in response to an audit.

Risks: Court staff do not consistently maintain procurement files, or maintain files that are incomplete, which might hinder the court's ability to demonstrate it followed a fair and consistently applied competitive procurement process. Courts may also require that each buyer maintain his or her own procurement files, instead of establishing a centralized and uniform method of storing these procurement records. Audit Services has observed instances when court officials could not

⁸ See JBCM, Chapter 4, section 4.7

⁹ For *Non-IT Goods* see JBCM Chapter 4A, step 14. For *Non-IT Services* see JBCM Chapter 4B, step 16. For *IT Goods and Services* see JBCM Chapter 4C, step 17.

locate necessary procurement records after the court's buyer (i.e. the custodian of the file) had left employment with the court. In other cases, Audit Services observed that key documentation—such as the court's solicitation documents or an explanation describing how the court selected the winning bidder—was missing from the procurement file.

Recommendation: To ensure court staff can consistently and easily demonstrate their adherence to the JBCM—or respond to external inquiries—court executive officers may wish to review their court's local practices for creating and storing their procurement files. Court executives might consider requiring all procurement files be stored in a central location or locations (instead of with individual employees), and consider developing checklists or other tools to ensure the contents of each procurement file is complete and can describe the key decisions leading up to contract award.

Prohibition on Contract Splitting

Criteria: JBCM Chapter 4A (Procurement of Non-IT Goods)
JBCM Chapter 4B (Procurement of Non-IT Services)
JBCM Chapter 4C (Procurement of IT Goods and Services)

Process: The JBCM has established various procurement value thresholds that affect how courts competitively procure goods and services. Generally, the higher the procurement value, the more time and effort is required to procure the needed goods or services. Some examples of these thresholds include:

- When competition is required (i.e. \$10,000 or higher)
- When the use of an RFQ solicitation is appropriate (versus IFB or RFP)
- When advertising is required
- Award protest threshold (below which bidder protests are not permitted).

To prevent individuals from circumventing the JBCM's various procurement standards, Chapters 4A, 4B, and 4C each prohibit courts from engaging in *contract splitting*, which is a practice of artificially breaking up what would normally be a single procurement activity into multiple smaller procurements. For example, an individual might want to issue a contract to the same vendor for the same services, year-after-year, to ensure each annual contract is under \$10,000 (and thus not subject to competition or advertising requirements). An individual may also want to engage in contract splitting so he or she can take

advantage of the simplified and less stringent RFQ process, instead of using the IFB or RFP processes. The JBCM's prohibition on contract splitting is contained in each chapter that provides guidance to the courts on how to determine procurement value.¹⁰

Why it matters: Although preparing and issuing competitive solicitations can be time-intensive, competition is a basic tenet of the JBCM and is intended to benefit the court's limited financial resources through lower prices. Court employees should not attempt to intentionally avoid competition based on how they establish each procurement's value.

Risks: Court procurement officials might split procurements with the intention of avoiding competition to select a preferred vendor or avoid the time and hassle of engaging in a thorough competitive procurement.

In other cases, court procurement officials may have no ill-intent and might simply just continue "what the court has always done" by issuing the same contracts to the same vendors without ever following a competitive procurement process.

Recommendation: To ensure the courts are taking every reasonable opportunity to issue competitive solicitations, court executive officers should review the court's listing of contracts (by vendor) to see if there is a pattern of awarding small value procurements (such as under \$10,000) for essentially the same services.

Non-Competitive Procurement – Sole Source Justifications

Criteria: JBCM Chapter 5 (Non-Competitively Bid Procurements), Section 5.9

Process: Courts are generally required to issue competitive solicitations when the estimated value of the procurement equals or exceeds \$10,000.¹¹ However, courts are still permitted to enter into agreements with vendors that were not the

¹⁰ For *Non-IT Goods* see JBCM, Chapter 4A, step 1. For *Non-IT Services* see JBCM, Chapter 4B, step 1. For *IT Goods and Services* see JBCM, Chapter 4C, step 1.

¹¹ Procurements with an estimated value of less than \$10,000 are categorically exempt from competitive bidding requirements per JBCM Chapter 5, section 5.1. However, the court must still determine that the pricing is "fair and reasonable."

result of competition if the procurement falls into certain categories including, but not limited to, the following:

- Emergency purchases
- Purchases from governmental entities
- Legal services
- Certain *Leveraged Procurement Agreements* (LPAs)
- Subvention and local assistance contracts (i.e. grant agreements)
- Agreements with a vendor who is the “sole-source” for particular goods or services.

The JBCM defines the appropriate use of a *sole source* vendor in Chapter 5, section 5.9 as a procurement where one of the following two requirements are met:

- i.) The vendor is the only source of the goods or services that meet the court’s need, or
- ii.) A grant application deadline does not permit the time needed for a competitive procurement of services.

Court personnel seeking to use a sole-source vendor must first obtain approval from the court’s “sole-source approver” by submitting a “sole-source request.” The JBCM defines what should be included in the request—such as an explanation for why the goods or services cannot be procured competitively—and encourages courts to document the approved request in the procurement file (as discussed previously in this advisory).

Why it matters: Courts should generally seek to maximize and promote competition when there is possibly more than one source for the needed goods or service.

Risks: Audit Services has observed courts approving sole-source requests that do not meet the JBCM’s definition of a sole-source vendor. In particular, courts have justified avoiding competition and using its chosen vendor as a sole source because:

- The court assumes the vendor is the cheapest
- The court believes using the vendor is the most convenient
- The court incorrectly believes other vendors do not exist
- The court has a history of using the vendor, who does good work
- The court prefers the vendor’s product, even though the price is higher than a competitor’s equivalent product

Courts might then perpetually amend and extend their agreement with the sole-source vendor, year-after-year, without periodically reconsidering other vendors—and any potential cost savings—through a competitive solicitation.

Although the JBCM provides each court with the discretion to categorically exempt certain types of goods or services from competitive solicitations, courts should do so sparingly and should have policies or practices to periodically re-evaluate whether competition is possible and in their best interests. A court's categorical exemptions should be documented, either using an established form or in a memorandum, and its use of these exemptions during specific procurement transactions should be documented in its individual procurement files and referenced on the procurement summary sheet.¹²

Recommendation: To ensure the courts are correctly documenting and justifying its use of sole-source vendors, court executive officers or procurement staff may wish to review samples of recently approved sole-source requests for appropriateness based on the risks described above.

Courts should also consider developing local policies or practices requiring procurement staff to competitively bid contracts that have been previously satisfied with the same sole-source vendor over an extended period.

Vendor Payment Process – Three-Point Match Process

Criteria: FIN Manual, Policy 8.01, Section 6.3 – Invoice Processing
FIN Manual, Policy 8.02, Section 6.1.2 – Claims Processing
JBCM, Chapter 9, Section 9.1(F) – Payment of Invoices

Process: Courts pay vendors and in-court service providers through the receipt and processing of invoices and claims, respectively. The JBCM references the payment policies contained within the FIN Manual, which establishes a 3-point match process where courts are required to perform the following prior to authorizing payment of an invoice or claim:

- Match the invoice / claim to a purchase agreement (such as a purchase order or contract).

¹² See JBCM, Chapter 5, Section 5.10 for the discussion on *Special Category NCB Contract Request*.

- Match the invoice / claim to proof of receipt of goods or services (such as a packing slip, project deliverables, or other confirmation by an authorized court employee).

Although the JBCM supersedes certain chapters of the FIN Manual, the JBCM still requires courts to follow the FIN Manual's invoice processing procedures, which include the 3-point match process.¹³

Why it matters: Courts should take steps to ensure it is only billed for the goods and services previously agreed to in its contracts and purchase orders and ensure that it only pays for these goods and services upon verification of receipt.

Risks: While rare, Audit Services does occasionally observe courts that process invoices for payment without being able to demonstrate they had first completed the three-point match process. Audit Services generally looks for a clerk's initials, tick-marks, or other indications by court employees demonstrating they had first compared the invoice to the purchase agreement and verified the delivery of the goods/services. In other cases, we have observed court managers authorizing payment without any assurance or indication from court staff that they have previously performed the 3-point match.

Other potential risk areas include court managers relying on e-mails from court employees confirming the delivery of goods, which is more appropriately documented from a packing slip or similar document.

Recommendation: As a general management practice, court executive officers may wish to periodically review how their employees complete and document their execution of the 3-point match process to ensure it is working as intended.

Vendor Payment Process – Authorization of Payment

Criteria: FIN Manual, Policy 8.01, Section 6.4 – Invoice Processing

Process: The court executive officer or an authorized representative must approval all invoices for payment.¹⁴ Generally, the CEO will delegate this approval authority

¹³ See JBCM, Introduction, section 6

¹⁴ See FIN Manual, Policy 8.01, section 6.2.1(3).

to certain managers based on a dollar-value range, with executive management retaining the authority to approve significant payments to vendors or service providers.

Why it matters: The court's management should be responsible for approving the court's payment transactions, with higher-level senior managers and executive officers approving significantly large payments based on the court's evaluation of risk. Such policies provide for the segregation of duties and ensures management has sufficient awareness, at the appropriate management level, of the court's financial transactions.

Risks: Audit Services has observed instances where court employees have approved payment when they lacked the authority to do so. In other instances, we found courts did not have an updated listing of those authorized to approve payments (e.g. some delegations listed personnel who no longer worked at the court).

Finally, courts should consider identifying a sufficient number of managers (i.e. backups) who are authorized to approve payments, since the FIN Manual prohibits individual employees from approving their own purchases (i.e. a single manager cannot unilaterally request, approve, and issue a payment on the court's behalf.)

Recommendation: As a general management practice, court executive officers may wish to periodically review whether their delegation of authority over payment approval is up-to-date, and evaluate whether these delegations by dollar amount reflect the presiding judge and court executive officer's operational preferences.

Purchase Card Transactions – Daily and Transactional Limits

Criteria: JBCM, Chapter 9, Section 9.2

Process: Purchase cards are method of payment that works similar to personal credit cards, and courts are expected to establish internal controls over their use. Purchase cards are only for official court business and personal use is prohibited.

The JBCM establishes certain transactional and daily limits on each purchase card, which are intended to ensure most purchases are for low-cost goods which

would not be subject to vendor selection through a competitive procurement. These limits are:

- \$1,500 per transaction
- \$5,000 per day

The JBCM allows each court to establish higher transactional or daily limits if documented in the court's local contracting manual.

Court policies should also include procedures designed to ensure the JBCM's procurement procedures are not circumvented (for example, all purchase card transactions for goods should be initiated by an approved purchase requisition.)

Purchase cardholders are responsible for providing documentation in the form of purchase requisitions and receipts for transactions made with purchase cards. Lacking any other documentation, cardholders should provide a written explanation describing what they purchased with the purchase card and how it benefits the court. Court accounting staff should have policies or procedures to verify the charges on the court's purchase cards and obtain necessary documentation from cardholders to substantiate the appropriateness of the charges.

Why it matters: Although purchase cards are a convenient way of paying for low-cost goods that the court needs, they are also an area of high-risk for fraud or abuse if the court lacks sufficient controls to monitor purchase card use by its employees.

Risks: Audit Services has observed instances where courts have exceeded the JBCM's suggested transactional or daily limits, without establishing higher limits in its local contracting manual.

Recommendation: As a general management practice, court executive officers may wish to periodically review their purchase card policies, focusing on whether the limits the court has imposed (if higher than the JBCM) are appropriate. Further, the court should evaluate whether its monitoring controls over purchase card transactions can reasonably detect or prevent fraud or abuse by court employees.

Appendix A – Summary of Competitive Solicitation Methods

		Requests for Quote (RFQ)			Invitations for Bid (IFB)			Requests for Proposal (RFP)		
General Description		An RFQ is used for straightforward, uncomplicated and low-risk procurements. Given the low dollar amounts used for RFQs, advertising is generally not required, while sometimes receiving only one bid is acceptable "to achieve competition."			An IFB can be used for any procurement and establishes minimum requirements that must be satisfied in order for the bid to be "responsive." The bids received are sealed and publicly opened. The court awards the contract to the lowest responsive bid from a responsible bidder (i.e. one who is capable of performing the work).			An RFP is used for relatively complex and high-risk, high-value procurements. Court selects winning bidder based on highest scored bid as determined by the evaluation team using scoring criteria established upfront.		
Different Factors		<i>Non-IT Goods</i>	<i>Non-IT Services[^]</i>	<i>IT Goods & Services</i>	<i>Non-IT Goods</i>	<i>Non-IT Services</i>	<i>IT Goods & Services</i>	<i>Non-IT Goods</i>	<i>Non-IT Services</i>	<i>IT Goods & Services</i>
When to use...		< or = to \$50,000	< \$10,000	< or = to \$100,000	Any	Any	Any	N/A	Any	Any
Advertising required when...		N/A***	N/A	N/A***	> \$50,000***	> or = to \$10,000	> or = to \$100,000***	N/A	> or = to \$10,000	> or = to \$100,000***
Minimum suggested bids		1 bid*	1 bid*	2 bids	2 bids	3 bids	2 bids	N/A	3 bids	2 bids
Bid handling requirements		Confidential	Confidential	Confidential	Must be sealed	Must be sealed	Must be sealed	N/A	Confidential	Confidential
Bid opening requirements		N/A	N/A	N/A	Public Opening	Public Opening	Public Opening	N/A	Team Scoring	Team Scoring
Must award to...		Lowest responsive bid from responsible bidder**	Lowest responsive bid from responsible bidder, or highest scored bid	Lowest responsive bid from responsible bidder, or highest scored bid	Lowest responsive bid from responsible bidder	Lowest responsive bid from responsible bidder	Lowest responsive bid from responsible bidder	N/A	Highest scored bid	Highest scored bid
Notice of Intent to Award		N/A	N/A	N/A	Publicly Post	Publicly Post	Publicly Post	N/A	Publicly Post	Publicly Post
Protest Threshold		N/A	\$5,000	\$100,000	\$50,000	\$5,000	\$100,000	N/A	\$5,000	\$100,000

Notes: The thresholds and requirements shown above are based on the Judicial Branch Contracting Manual (as of August 1, 2018), and certain amounts are subject to change by each court as documented in its Local Court Contracting Manual.

TickmarkKey * If "fair and reasonable"

** If the total value of the award exceeds \$25,000 (unless court has documented a different threshold).

*** Advertising is still required if there is a "services" component that is \$10,000 or greater, regardless of overall procurement value

[^] Procurements that are less than \$10,000 are categorically exempt from competition per the JBCM, Chapter 5, section 5.1

To: The Hon. David Rosenberg, Chair, Advisory Committee on Audits and Financial Accountability (Audit Committee).

From: Administrative Presiding Justices of the Courts of Appeal
Clerk Executive Officers of the Supreme Court and Courts of Appeal

Dear Judge Rosenberg,

We write in response to the Audit Committee's September 4th, 2018, memo expressing concern that the Courts of Appeal, including the Supreme Court, are operating without a consistent, branch-wide set of financial and operational policies, and asking these courts to develop their own standardized policies and procedures manual.

We appreciate your concerns and take them seriously. In the five months since this memo was issued, the Clerk Executive Officers (CEOs) have worked hard to address your concerns. They created a work group, conducted in-depth research, and sought advice from JCC staff. Initially, their efforts were focused on the suggestion of creating a manual similar to the "Trial Court Financial Policies and Procedures Manual" (FIN Manual). After partial review of the FIN Manual, court staff concluded that the scope of such a project would be difficult to accomplish without outside assistance. Subsequently, our CEOs reached out to the JCC and requested resources similar to those provided to the superior courts in the development of their FIN Manual. The JCC responded that providing dedicated resources at this time would be challenging given the current fiscal limitations and the demands of implementing FI\$Cal.

Please note a key difference in appellate operations from superior court operations – the JCC provides administrative support for the appellate courts including accounting and budget-monitoring, with appropriate JCC controls. For procurement of goods and services, each appellate court has a Local Contracting Manual, which incorporates applicable sections of the state-wide Judicial Branch Contracting Manual and defines procurement and contracting policies and procedures. The appellate courts are now using FI\$Cal, an automated state-wide financial program, for our procurement processes. Both the manuals and FI\$Cal incorporate separation of duties and internal control features.

Nevertheless, we agree that a comprehensive review of the FIN Manual could be helpful in identifying potential gaps. This goal, however, cannot be achieved without JCC assistance. Thus, we ask for the Audit Committee's assistance in obtaining the resources necessary from the JCC to help us achieve it.



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Chief Justice of California
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MR. MARTIN HOSHINO
Administrative Director,
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COMMITTEE STAFF
Mr. Grant Parks
Tel 916-263-1321

AuditCommittee@jud.ca.gov

August 31, 2018

To: Administrative Presiding Justices of the Courts of Appeal
Clerks and Executive Officers of the Courts of Appeal

Re: Branch-wide Policies and Procedures for the Courts of Appeal

Administrative Presiding Justices and Executive Officers:

Under California Rules of Court, Rule 10.63(b), the Advisory Committee on Audits and Financial Accountability for the Judicial Branch (audit committee) is responsible for making recommendations to the Judicial Council on practices that will promote financial accountability and efficiency. Among the audit committee's various obligations is the requirement that it approve an annual audit plan for the judicial branch, which includes selecting judicial branch entities for audit and defining the scope of these reviews.

During the audit committee's meeting earlier this month, committee members approved the audit plan for fiscal year 2018-19, and identified both the 4th and 5th Districts of the Courts of Appeal (DCA) for audit. Currently, staff from the Judicial Council's Audit Services plan to begin an audit of the 5th DCA in September and the 4th DCA in December. However, when discussing the proposed scope of these upcoming audits, committee members expressed some concern that the Courts of Appeal operate without a consistent, branch-wide set of financial and operational policies.

The audit committee believes that developing financial and operational policies that are designed to mitigate significant risks—particularly those risks that are common throughout the Courts of Appeal—to be a prudent business practice, and one that also furthers the judicial branch's strategic goal of enhanced independence and accountability. The ongoing process of risk identification and mitigation is also one that is required of other government agencies in the State's executive branch, pursuant to the State

Leadership Accountability Act (SLAA).¹ SLAA requires the head of each executive branch agency to review biennially the effectiveness of his or her agency's internal controls, and to improve upon or replace them when they are no longer adequate.

When updating internal controls in response to risk, government entities often document and communicate these changes to their employees through the modification of existing policies or procedures. For example, the superior courts operate under the *Trial Court Financial Policies and Procedures Manual* (FIN Manual), which the Judicial Council adopts pursuant to California Rules of Court, Rule 10.804. The Judicial Council approved the 9th edition of the FIN Manual in May 2018, and the manual serves to help the superior courts mitigate common areas of significant risk. Examples include the FIN Manual's rules restricting how superior court employees handle cash and other forms of payment made by the public, and by defining when a court employee would have incompatible responsibilities based on a clearly communicated segregation of duties.

The audit committee and its staff recognize that the Courts of Appeal operate in a fundamentally different environment from the superior courts, and likely face different operational and financial risks. Nevertheless, the audit committee has asked that I write this letter to encourage the Courts of Appeal to develop its own standardized policies and procedures manual, such that a fundamental baseline of internal controls will exist throughout the Courts of Appeal to address the common and significant risks that your courts collectively face. The committee understands that various clerks and executive officers have had ongoing discussions about the development of such a manual over the past year; however, the audit committee currently lacks a clear understanding of this effort's overall status, or an indication of when such a manual will become effective. The audit committee will seek an update on the manual's development before March 1, 2019, and will greatly rely on input from Presiding Justice Siggins and Mr. Kevin Lane—who both represent the Courts of Appeal on the audit committee.

Ultimately, our committee's members are hopeful that such a manual might become effective by late spring, so the committee's staff can consider these new requirements when developing the annual audit plan for fiscal year 2019-20. To assist with the development of its manual, the Courts of Appeal might consider reviewing the superior courts' FIN Manual as a starting point to identify sections that are relevant to its own operations. For example, the FIN Manual's controls over the vendor payment process (per FIN 8.01), with its "3-Point Match" requirements for inspecting invoices prior to payment are likely relevant. Similarly, the Courts of Appeal may wish to establish standard controls in the areas of: payments to in-court services providers (FIN 8.02); travel expense claims submitted by court employees (FIN 8.03); the court's use of petty cash (FIN 8.04); and allowable business meals (FIN 8.05). The Courts of Appeal might also consider using its branch-wide manual to establish consistent internal requirements or guidelines

¹ The State Leadership Accountability Act is codified in Government Code, section 13400 - 13407

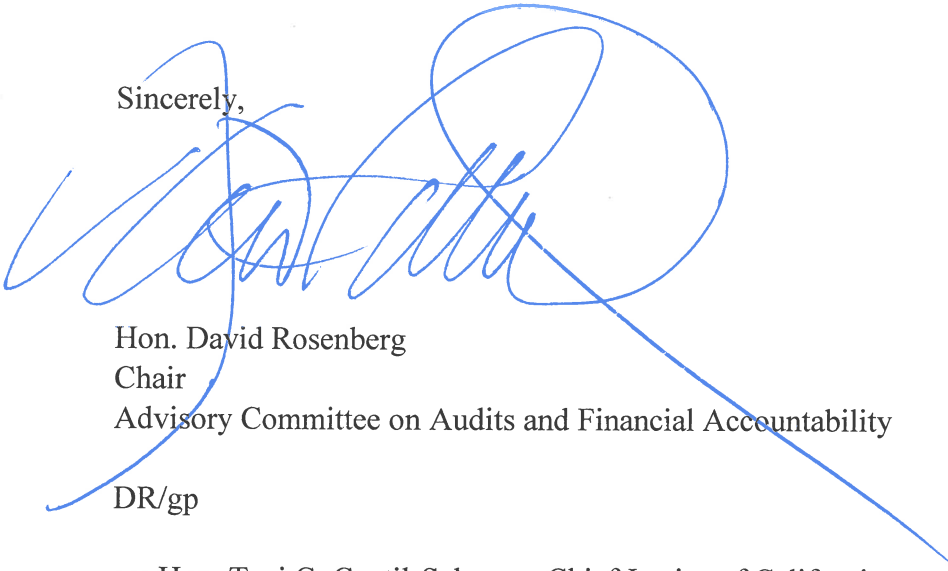
August 31, 2018

Page 3

designed to ensure: (1) that the court's expenditures remain within the budget established by the Administrative Presiding Justice; or (2) that pending caseloads are regularly analyzed and scheduled by court staff using certain calendar management techniques that the Courts of Appeal deem to be effective.²

I am aware that committee staff have previously provided input and suggestions regarding the draft manual, and I encourage you to contact the committee's lead staff—Mr. Grant Parks at (916) 263-1321—should you request the committee's further assistance. The audit committee greatly appreciates the efforts made by the Courts of Appeal thus far, and it stands ready to assist you in any way we can in this important effort.

Sincerely,



Hon. David Rosenberg
Chair
Advisory Committee on Audits and Financial Accountability

DR/gp

cc: Hon. Tani G. Cantil-Sakauye, Chief Justice of California
Martin Hoshino, Administrative Director, Judicial Council

² Example taken from California Rules of Court, Rule 10.1020(c), paragraphs 2 and 4.



JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 03/28/2019

Action Item #1 – (Action Required)

Budget Change Proposal – Concept (SCO Trial Court Audits)

Requested Action:

- **Action Item** - Discuss and approve the attached budget change proposal concept as part of the budgetary planning process for fiscal year 2020-21.

Supporting Documents:

- ***Attachment D***—Budget Change Proposal Concept – State Controller’s Office (SCO) Audits of the Trial Courts.
- ***Attachment E***—Description of the judicial branch budget process

Summary:

The judicial branch’s budget process requires advisory committees to approve budget concepts before they are considered by the Judicial Branch Budget Committee (JBBC). A description of the budget process is included in Attachment E. On March 18th, the JBBC authorized the further development of a budget change proposal that addresses the long-term and recurring costs of the SCO’s audits.

Committee staff are requesting the approval of the budget change proposal concept (Attachment D) so that it may be provided to the Judicial Branch Budget Committee for consideration in May 2019 (and ultimately considered by the Judicial Council in July 2019). Those budget proposals that are approved by the Judicial Council are submitted to the Department of Finance for consideration in the Governor’s proposed budget for fiscal year 2020-21.

The audit committee has previously considered six audits performed by the State Controller’s Office, which are required pursuant to Government Code, Section 77206(h). The attached budget proposal seeks increased spending authority for the Judicial Council to pay for these SCO audits on the trial courts’ behalf using funds from the Trial Court Trust Fund. Many trial courts currently lack the resources to pay for

these audits, so committee staff are submitting this funding proposal so that these legislatively-mandated audits are funded through a specific appropriation.

If this proposal is rejected, the SCO will need to enter into agreements with each superior court to obtain reimbursement for the SCO's audit costs. Such a process would be inefficient and would adversely affect trial court operations. According to statute, the reasonable costs of the audits are to be paid by the local trial court's funds.

Action 1: Committee staff recommend that the audit committee approve the attached budget concept so that it may be provided to the Judicial Council's budget staff and ultimately the JBBC.

2020-21 Initial Funding Request and Budget Change Proposal Concept

Requesting Entity: *Advisory Committee for Audits and Financial Accountability*

Contact: Grant Parks

Date Prepared: 3/20/2018

Budget Services Liaison: Michael Sun

Document Tracking Number: IFR-20-24

SECTION 2 – Budget Change Proposal Concept: *Once the Initial Funding Request has been approved to be developed into a concept, complete Section 2 to provide additional detail about the request. (IFR approved by Judicial Branch Budget Committee on 3/18/2019)*

Proposal Title: Statutory Statewide Trial Court Audit Program – State Controller’s Office

Fiscal Summary:

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Trial Court Trust Fund (0932)	0	0	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000

Detailed Funding By Fiscal Year:

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,600,000	\$1,600,000	\$1,600,000
One-Time			
Total	\$1,600,000	\$1,600,000	\$1,600,000

Proposal Summary: *Government Code, Section 77206(h) requires the State Controller’s Office (SCO) to audit every trial court’s revenues, expenditures and fund balance on a four-year cycle. Pursuant to GC 77206(h)(4), the costs of these audits are to be paid from funds of the local trial courts being audited. This funding request seeks additional spending authority to assist the trial courts in paying for these audits, and to allow the Judicial Council to reimburse the SCO on the trial courts’ behalf.*

Background Information: *Government Code, Section 77206(h) requires the SCO to audit every trial court’s revenues, expenditures and fund balance on a four-year cycle. The audit scope includes the review of the revenues, expenditures and fund balances of all material and significant funds within each trial court’s administration and control. State law designates the SCO as the auditing entity to perform this work, unless the Judicial Council determines that either the State Auditor’s Office or the Department of Finance can perform the same scope of work as the SCO (but at a lower cost). The SCO submits its*

2020-21 Initial Funding Request and Budget Change Proposal Concept

audit reports to the Legislature, and statute requires that “the reasonable and necessary costs of the audit...shall be paid from funds of the local trial court being audited.” State law specifies that these audits shall be in addition to any audit regularly conducted pursuant to any other provision of law.

State law also requires the SCO to complete an initial pilot audit of six trial courts to develop an audit approach and to estimate the costs of the full audit program. The SCO completed its work on the pilot audits in February 2019 and has estimated annual costs of roughly \$1,600,000 (i.e. to audit 14-15 courts per year to achieve the four-year audit cycle).

Justification: *Many trial courts, particularly the mid-size to smaller courts, are not currently budgeted to pay for these audit costs and doing so would adversely affect trial court operations. Further, without the authority for the Judicial Council to pay for these audits on the trial courts’ behalf, the SCO would need to enter into court-specific contracts with each of the 58 superior courts to bill for and obtain reimbursement. Such an approach would be inefficient and would create greater costs for the SCO to complete its work.*

Fiscal Impact: *The SCO estimated its annual audit costs to be roughly \$1,600,000 each year. This estimate is based on the SCO’s experience in auditing six trial courts (2 large courts, 2 medium-sized, and 2 small). The courts included in the pilot audit were: Sacramento; San Mateo; Yolo; Sonoma; Amador; and Tehama. The previous Budget Act of 2018 appropriated \$540,000 to conduct trial courts audits pursuant to GC 77206(h). This request would add an additional \$1,060,000 to appropriation item 0250-101-0932 (provision #16) on an ongoing basis for a total annual, recurring appropriation amount of \$1,600,000.*

Outcomes and Accountability: *The audit requirement is established in state law and helps to promote transparency and accountability over trial court fiscal operations. Audit reports are submitted to the Legislature, which further demonstrates accountability for the spending of public funds.*

Projected Outcomes: *The SCO’s audits will be reviewed by the Judicial Council’s Advisory Committee for Audits and Financial Accountability (audit committee). Significant audit findings will be shared with the Judicial Council, potentially resulting in policy changes that would implement corrective action in response to reported audit findings. The audit committee will also use the SCO’s audit findings to communicate audit issues and recommend best practices to the trial courts.*

Other Alternatives Considered: *The only other option is not to seek additional funding, which would result in trial courts needing to pay for these audit costs, which are not currently part of their annual budget allocations. According to statute, the SCO audits described in this proposal are in addition to any other audit regularly conducted pursuant to state law.*



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 16, 2016

Title	Agenda Item Type
Judicial Branch Budget: Budget Change Proposal Process	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	December 16, 2016
Recommended by	Date of Report
Judicial Branch Budget Committee Hon. David M. Rubin, Chair	November 18, 2016
	Contact
	Lucy Fogarty, Deputy Director, Budget Services 415-865-7587 lucy.fogarty@jud.ca.gov

Executive Summary

To promote the efficient, fiscally prudent, effective, and fair allocation of branch resources in advancing statewide judicial branch interests, the Judicial Branch Budget Committee recommends approving a new process for budget change proposal preparation, approval, and submission to the Department of Finance.

Recommendation

The Judicial Branch Budget Committee (JBBC) recommends that the Judicial Council approve the following budget change proposal (BCP) process, effective immediately:

1. Between October and March, Initial Funding Requests (IFRs) (Attachment A) are submitted to the JBBC by Judicial Council advisory bodies and other requesting entities. The JBBC

reviews the IFRs and determines which IFRs should be developed into BCPs or BCP concepts (Attachment B) as necessary for further advisory committee consideration;

2. Between April and June, IFRs are developed into BCPs (Attachment C) and all applicable advisory bodies, as identified in the original IFR, are given the opportunity, as time permits, to provide input. Advisory bodies prioritize BCPs within their purview for submission to JBBC for its review;
3. No later than two weeks before the July Judicial Council meeting, the JBBC reviews unsuccessful BCPs from the prior fiscal year and suggests which old BCPs should be included as part of the new budget year package. The JBBC then organizes and prioritizes all BCPs for further review;
4. At the July Judicial Council meeting, the BCPs are presented to the Judicial Council for final prioritization and approval;
5. In August, after Judicial Council approval and prior to submission to the Department of Finance (DOF), Judicial Council staff completes the drafting of all BCP documents required by the DOF and submits them to the JBBC for review; and
6. In the first week of September, BCPs are signed by the Administrative Director, Judicial Council, and submitted to the DOF on the date determined by the DOF.

The time frames provided in the above process are estimates and may change in order to meet required deadlines or for other reasons identified by the JBBC.

Previous Council Action

Under California Rules of Court, rule 10.101(b)(3), the Judicial Council must “[d]evelop the budget of the judicial branch based on the priorities established and the needs of the courts.” To that end, the council submits budget proposals on behalf of the Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, trial courts, and Habeas Corpus Resource Center to the Department of Finance. Past practice under this authority included presenting budget proposal recommendations from Judicial Council advisory bodies and boards to the council for approval and prioritization for submission to the DOF.

In July 2016, the Judicial Council established the Judicial Branch Budget Committee to assist the council in exercising its duties under rule 10.101 with respect to the judicial branch budget. The council assigned the committee the responsibility of reviewing budget change proposals for the judicial branch, coordinating these budget change proposals, and ensuring that they are submitted to the council in a timely manner.

Rationale for Recommendation

Under rule 10.101(c)(1), “[t]he Chief Justice and the Administrative Director may take the following actions, on behalf of the Judicial Council, with regard to any of the Judicial Council’s recommended budgets for the Supreme Court, the Courts of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource Center, and council staff:

(A) Make technical changes to the proposed budget; and

(B) Make changes during their negotiations with the legislative and executive branches consistent with the goals and priorities adopted by the Judicial Council.”

The state employs an incremental approach for creating its annual budget, using the previous fiscal year’s appropriation as a starting point for discussing the current year’s budget. Budget entities such as the judicial branch use budget change proposals to advocate for additional appropriations. BCPs typically target a specific program or need and seek funding for that item. BCP’s assist the Department of Finance in understanding the budgeting entity’s fiscal priorities.

Funding adjustments in the State Budget must be submitted to the DOF by its deadline the first week of September. For the Judicial Branch Budget Committee to effectively execute its charge, namely to review and coordinate BCPs for the judicial branch and ensure that they are timely submitted to the council, an established process approved by the Judicial Council is necessary. The recommended process provides for appropriate review by Judicial Council advisory bodies of budget change proposal concepts before submission to the council for approval and prioritization. It also provides time for council staff to develop the BCP concepts into the comprehensive BCP documentation required by the DOF in advance of the DOF deadline.

Comments, Alternatives Considered, and Policy Implications

No public comments were received when this proposal was considered at the open Judicial Branch Budget Committee meeting on October 26, 2016.

Implementation Requirements, Costs, and Operational Impacts

The implementation requirement for this new policy includes notifying advisory bodies and impacted Judicial Council staff of the process and applicable time frames.

Relevant Strategic Plan Goals and Operational Plan Objectives

The budget change proposal process addresses several strategic plan goals: Goal II, Independence and Accountability; Goal IV, Quality of Justice and Service to the Public; Goal VI, Branchwide Infrastructure for Service Excellence; and Goal VII, Adequate, Stable, and Predictable Funding for a Fully Functioning Branch.

Attachments and Links

1. Attachment A: Initial Funding Request

2. Attachment B: Budget Change Proposal Concept
3. Attachment C: Department of Finance Budget Change Proposal Document



JUDICIAL COUNCIL
OF CALIFORNIA

ADVISORY COMMITTEE ON AUDITS AND
FINANCIAL ACCOUNTABILITY FOR THE
JUDICIAL BRANCH

Meeting Date: 03/28/2019

Action Item #2 – (Action Required)

External Audit Report – State Controller’s Office

Requested Action:

- **Action Item** - Discuss the external audit report of Sonoma Superior Court and approve for public posting on the www.courts.ca.gov website, per California Rules of Court, Rule 10.63(c)(1).

Supporting Documents:

- ***Attachment F***—California State Controller’s audit of Sonoma Superior Court for fiscal year 2016-17 (review of revenues, expenditures, and fund balance per Government Code, Section 77206(h))

Summary:

Government Code, Section 77206(h) requires the State Controller’s Office (SCO) to engage in a pilot audit program (involving six courts) to review each court’s revenues, expenditures and fund balance. The audit findings and costs associated with the pilot audit program will be used to inform the Legislature of the potential costs associated with the SCO auditing roughly 14-15 courts per year on a recurring basis.

The Judicial Council entered into an agreement with the SCO in September 2017 in order to facilitate the pilot audit program, which includes the following six courts:

- Yolo – (discussed in committee, May 23, 2018)
- Sacramento – (discussed in committee, August 23, 2018)
- Amador – (discussed in committee, October 3, 2018)
- San Mateo – (discussed in committee, February 8, 2019)
- Tehama – (discussed in committee, February 8, 2019)
- Sonoma – (discussed today)

Sonoma Audit Summary

Overall, the SCO concluded that Sonoma had “complied with governing statutes, rules and regulations relating to the validity of recorded revenues, expenditures, and fund balances. However, the SCO did identify some weaknesses in internal controls in the following areas:

Cash Handling – SCO auditors noted weaknesses in the following areas:

- The court’s safe is left open and unsecured during the day. Cash bags are placed on a shelf in the open safe.
- At times, court clerks walked away from their tills at the payment windows without securing the funds collected (i.e. by leaving the keys in the till and walking away)
- The court does not follow the Judicial Council’s recommend two-person team approach to opening mail containing payments to the court, and do not regularly rotate staff who perform this function.

Procurement – SCO auditors tested two procurement transactions and noted that court staff had incorrectly calculated the bid amounts proposed by vendors (i.e. by transposing numbers and adding tax to items that already included tax amounts). The SCO recommended the court develop procedures to review how it compares bids on its procurements.

Unclaimed Trust – SCO auditors identified over \$433,000 in the court’s trust account that was unclaimed by the public for over three-years. The SCO recommends the Court develop a process to issue more timely public notices on unclaimed funds so that the escheatment process can begin.

The Sonoma court agreed with the SCO’s observations and reported that it would work towards correcting the issues noted through the creation of new policies and procedures.

Action 2: Committee staff recommend that the audit committee approve the public posting of the attached SCO audit report (Attachment F) on www.courts.ca.gov per California Rules of Court, Rule 10.63(c)(1).

SUPERIOR COURT OF SONOMA COUNTY

Audit Report

VALIDITY OF RECORDED REVENUES, EXPENDITURES, AND FUND BALANCES

July 1, 2016, through June 30, 2017



BETTY T. YEE
California State Controller

February 2019



BETTY T. YEE
California State Controller

February 6, 2019

Arlene Junior, Court Executive Officer
Superior Court of Sonoma County
600 Administration Drive, Room 106-J
Santa Rosa, CA 95403

Dear Ms. Junior:

The State Controller's Office audited the Superior Court of Sonoma County's (court) compliance with governing statutes, rules, and regulations to assess the validity of recorded revenues, expenditures, and fund balances of all material and significant funds under its administration, jurisdiction, and control. The audit period was July 1, 2016, through June 30, 2017.

Our audit found no instances of non-compliance. However, we found weaknesses in the court's administrative and internal accounting control system; these weaknesses are described in the Findings and Recommendations section of our report.

The court agreed with our findings, and provided a detailed Corrective Action Plan addressing its fiscal control weaknesses and our recommendations. We appreciate the court's willingness to implement corrective action.

If you have any questions, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/as

cc: Linda Walker, Finance Manager
Superior Court of Sonoma County
Martin Hoshino, Administrative Director
Judicial Council of California
Millicent Tidwell, Chief Deputy Director
Judicial Council of California
John Wordlaw, Chief Administrative Officer
Judicial Council of California
Zlatko Theodorovic, Chief Financial Officer and Director of Finance
Judicial Council of California
Grant Parks, Principal Manager
Audit Services
Judicial Council of California
Daniel Alvarez, Secretary of the Senate
Office of the Secretary of State
E. Dotson Wilson, Chief Clerk
California State Assembly, Office of the Chief Clerk
Amy Leach, Journal Clerk
California State Assembly, Office of the Chief Clerk
Diane F. Boyer-Vine, Legislative Counsel
Office of Legislative Counsel
Mark Tollefson, Assistant Program Budget Manager
California Department of Finance

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	5
Follow-up on Prior Audit Findings	6
Views of Responsible Officials	6
Restricted Use	6
Findings and Recommendations	7
Attachment—Court’s Response to Audit Findings	

Audit Report

Summary

The State Controller's Office (SCO) audited the Superior Court of Sonoma County's (court) compliance with governing statutes, rules, and regulations to assess the validity of recorded revenues, expenditures, and fund balances of all material and significant funds under its administration, jurisdiction, and control. The audit period was July 1, 2016, through June 30, 2017.

The court complied with governing statutes, rules, and regulations relating to the validity of recorded revenues, expenditures, and fund balances. However, we found weaknesses in the court's administrative and internal accounting control system. Specifically, we found that the court:

- Maintained inadequate internal controls over the cash-handling process;
- Maintained inadequate internal controls over the review and approval process; and
- Failed to follow up on unclaimed trust accounts.

Background

The court operates from one court location in Sonoma County, California. The court employs three judges and approximately 678 staff members to fulfill its operational and administrative activities. The court incurred more than \$29 million in expenditures for the period of July 1, 2016, through June 30, 2017.

The court controls the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund. These three funds each had revenues and expenditures in excess of 4% of total revenues and expenditures; all three funds are therefore considered material and significant.

Per the Judicial Council of California's *Trial Court Financial Policies and Procedures Manual*, trial courts are subject to rules and policies established by the Judicial Council to promote efficiency and uniformity within a system of trial court management. However, each trial court has the authority and responsibility for managing its own operations. All trial court employees are expected to fulfill the minimum requirements of their positions and conduct themselves with honesty, integrity, and professionalism. In addition, they must operate within the specific levels of authority that may be established by the trial court for their positions. California Rules of Court (CRC) and the *Trial Court Financial Policies and Procedures Manual*, established under Government Code (GC) sections 77000 through 77013 and adopted under CRC 10.804, specify guidelines and requirements for court governance.

GC sections 13400 through 13407 require state agencies to establish and maintain internal controls, including proper segregation of duties and an effective system of internal review.

We performed the audit at the request of the Judicial Council of California per GC sections 77206(h) and (j). The authority is provided by Interagency Agreement No. 1034558, dated September 5, 2017, between the SCO and the Judicial Council of California.

Objective, Scope, and Methodology

The objective of our audit was to determine whether the court complied with governing statutes, rules, and regulations relating to the validity of recorded revenues, expenditures, and fund balances of all material and significant funds under its administration, jurisdiction, and control.

Specifically, we conducted this audit to determine whether:

- Revenues were consistent with authorizing GC sections 77000 through 77013 requiring that they be properly supported by documentation and recorded accurately in the accounting records;
- Expenditures were properly authorized, adequately supported, accurately recorded in the accounting records, and incurred pursuant to authorizing GC sections 77000 through 77013 requiring consistency with the fund's purpose; and
- Fund balances were accurately reported based on the Legal/Budgetary basis of accounting and maintained in accordance with fund accounting principles.

The audit period was July 1, 2016, through June 30, 2017.

To achieve our objective, we:

General Procedures

- Reviewed the court's Governance Policies, the Budget Act, the Manual of State Funds, GC sections 13400 through 13407 and 77000 through 77013, CRC, the *Trial Court Financial Policies and Procedures Manual*, and relevant internal policies and procedures to identify compliance requirements applicable to trial court for revenues, expenditures, and fund balances.

Internal Controls

- Reviewed current policies and procedures, organization charts, and the court's website, and interviewed court staff to gain an understanding of the internal control environment;
- Assessed whether key internal controls, such as reviews and approvals, reconciliations, and segregation of duties were properly designed, implemented, and operating effectively by performing walk-throughs of revenue and expenditure transactions;
- Completed internal control questionnaires by interviewing key staff, and observed the business operations for the purpose of evaluating cash-handling and internal accounting controls; and
- Reviewed the court's documentation and financial records supporting the validity of recorded revenues, expenditures, and fund balances.

We performed the following tests of transactions to assess the court’s adherence with prescribed procedures and to validate and test the effectiveness of controls:

Revenue Substantive Testing

- Tested revenue accounts within the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund by selecting non-statistical samples (see the table below) to determine whether revenues were consistent with authorizing Government Code sections, properly supported by documentation, and recorded accurately in the accounting records;
- Tested all six individual revenue accounts that exceeded \$400,000, totaling \$5,577,450 out of \$29,430,373, or 19.0% of the total revenues (see the table below for percentages of revenue accounts sampled); and
- Judgmentally sampled a minimum of 10% of the selected revenue accounts within each account sampled, and traced to supporting documentation.

We did not identify any errors in the samples.

The following table identifies total revenues by account and related amounts tested:

Revenue Accounts	Total Revenues	Percentage Total	Amount Tested	Percentage Tested
State Financing Sources				
Trial Court Trust Fund	\$ 23,660,296	80.4%	\$ 3,768,752	15.9%
Court Interpreter	1,134,760	3.9%	226,654	20.0%
Other	1,172,050	4.0%	1,172,050	100.0%
	<u>25,967,106</u>		<u>5,167,456</u>	
Grants				
AB 1058 Commissioner/Facilitator	809,993	2.8%	142,084	17.5%
	<u>809,993</u>		<u>142,084</u>	
Other Accounts				
Local Fees	419,284	1.4%	54,259	12.9%
Enhanced Collections	1,308,640	4.4%	213,651	16.3%
	<u>1,727,924</u>		<u>267,910</u>	
Other miscellaneous accounts ¹	<u>925,350</u>	<u>3.1%</u>		
Total Revenues	<u>\$ 29,430,373</u>	<u>100.0%</u>	<u>\$ 5,577,450</u>	19.0%

¹Other miscellaneous accounts were not selected for testing.

Expenditure Substantive Testing

- Tested expenditure accounts within the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund by selecting non-statistical samples (see next page) to determine whether expenditures were incurred pursuant to authorizing Government Code sections consistent with the fund’s purpose, properly authorized, adequately supported, and accurately recorded in the accounting records;

- For Operating Expenditures and Equipment and Other Accounts, judgmentally sampled a minimum of 10% of the selected expenditure accounts and traced the amounts to supporting documentation. Tested all six individual accounts that exceeded \$400,000, totaling \$1,259,815 of \$4,859,411, or 25.9%.
- For Salaries – Permanent Employees, we selected 10 employees out of 678 from a list provided by the court for two pay periods in October 2016 and two pay periods in April 2017, and reconciled the amounts to supporting documentation to ensure that:
 - Employee time included supervisory approval;
 - Overtime was authorized, approved, and properly supported;
 - Regular earnings were supported by the Salary Resolution;
 - Regular earnings were supported by the general ledger; and
- For Staff Benefits, we selected the same 10 employees out of 678 from a list provided by the court for two pay periods in October 2016 and two pay periods in April 2017, and reconciled the amounts to supporting documentation and the general ledger.

We did not identify any errors in the sample.

The following table identifies total expenditures by account and related amounts tested:

Expenditure Accounts	Total Expenditures	Percentage Total	Amount Tested	Percentage Tested
Operating Expenditures and Equipment				
Security Services	\$ 405,397	1.4%	\$ 50,876	12.5%
Facility Operations	747,937	2.5%	87,090	11.6%
Contracted Services	1,708,745	5.8%	247,500	14.5%
Consulting and Professional Services	851,801	2.9%	164,941	19.4%
Information Technology	645,531	2.2%	209,408	32.4%
Other Accounts				
Total Other Accounts	<u>500,000</u>	1.7%	<u>500,000</u>	100.0%
Total Operating Expenditures, Equipment and Other Accounts	<u>4,859,411</u>		<u>\$ 1,259,815</u>	25.9%
Personnel Services ¹				
Salaries – Permanent Employees	12,974,863	44.0%		
Staff Benefits	<u>10,576,844</u>	35.9%		
Total Personnel Services	<u>23,551,707</u>			
Other miscellaneous accounts ²	<u>1,069,590</u>	<u>3.6%</u>		
Total Expenditures	<u>\$ 29,480,708</u>	<u>100.0%</u>		

¹Personnel Services were tested using a different methodology.

²Other miscellaneous accounts were not selected for testing.

Fund Balance Substantive Testing

- Tested expenditure transactions of the General Fund, the Non-Grant Special Revenue Fund, and the Grant Special Revenue Fund to determine whether transactions were reported based on the legal/budgetary basis of accounting and maintained in accordance with fund accounting principles (see the table below for transaction summary by fund); and
- Traced and recomputed individual fund balances in the court’s financial supporting documentation to ensure accuracy and compliance with the *Trial Court Financial Policies and Procedures Manual*.

We did not identify any errors in the sample.

The following table identifies changes in the fund balances:

	General Fund	Non-Grant Fund	Grant Fund	Total
Beginning Balance	\$ 1,197,087	\$ 1,469,133	\$ -	\$ 2,666,220
Revenues	26,683,321	1,590,998	1,156,054	29,430,373
Expenditures	(26,625,701)	(1,462,484)	(1,392,523)	(29,480,708)
Transfers In	-	396	236,469	236,865
Transfers Out	(236,865)	-	-	(236,865)
Ending Balance	<u>\$ 1,017,842</u>	<u>\$ 1,598,043</u>	<u>\$ -</u>	<u>\$ 2,615,885</u>

We conducted this performance audit under the authority of GC section 77206(h). We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We focused our review of the court’s internal controls on gaining an understanding of the significant internal controls within the context of the audit objective. We did not audit the court’s financial statements.

Conclusion

Our audit found that the court complied with statutes, rules, and regulations relating to the validity of recorded revenues, expenditures, and fund balances for the period of July 1, 2016, through June 30, 2017. However, we found weaknesses in the administrative and internal accounting control system, which are described in the Findings and Recommendations section of this report. Specifically, we found that the court:

- Maintained inadequate internal controls over the cash-handling process;

- Maintained inadequate internal controls over the review and approval process; and
- Failed to follow up on unclaimed trust accounts.

**Follow-up on
Prior Audit
Findings**

This is the first audit performed at the court pursuant to GC section 77206(h); however, the court was audited by the Judicial Council of California's Internal Audit Services in April 2011. That audit identified inadequate controls over the court's cash-handling process, which is an ongoing issue in the current engagement (see Finding 1).

**Views of
Responsible
Officials**

We provided the court with a preliminary final audit report on January 11, 2019. Arlene Junior, Court Executive Officer, responded by letter dated January 24, 2019 (Attachment), agreeing with the audit results. This final audit report includes the court's response.

Restricted Use

This audit report is solely intended for the information and use of the Superior Court of Sonoma County; the Judicial Council of California; and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit the distribution of this audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

February 6, 2019

Findings and Recommendations

**REPEAT
FINDING 1—
Inadequate internal
controls over the
cash-handling process**

During our review of the court’s internal controls, we found the court does not have adequate internal controls over the cash-handling process. Cash collection is one of the major components of reported revenues; therefore inadequate cash controls could affect the accuracy of reported revenues.

We identified the following deficiencies:

- The court’s safe is opened and closed by finance personnel in the morning and afternoon and is left unsecured during the day. Finance personnel do not remain at the safe until the lead clerk comes to collect and return cash bags into the safe at the start and end of the day. Cash bags are placed on a shelf in the open safe and finance personnel return later in the day to lock the vault.
- Money collected from the court’s offsite locations is transported by finance personnel in their personal vehicles between court locations with no security.
- Each clerk is responsible for his or her own lockable bag for cash collections. While the clerk is performing transactions at a transaction window, he or she takes money out of the bag and stores it in a lockable till at the window. Auditors observed instances in which clerks walked away from the transaction window with keys left in the till while performing transactions for customers.
- Only one court employee opens the mail, instead of a two-person team. In addition, the mail-opening responsibilities are not regularly rotated among staff members.

GC section 13401(a) (5) states, “Systems of internal control are necessarily dynamic and must be routinely monitored, continuously evaluated, and, where necessary, improved.”

The *Trial Court Financial Policies and Procedures Manual* (section 13.01, subsection 6.4.2) states:

Courts will maintain adequate security of monies in transit to banks and assure that the delivery is made consistent with safety, court needs, and the requirements of this policy. Following are the different methods to be used for depositing state monies into trial court bank accounts.

- a. Trial Court Employee: A trial court messenger or other assigned employee may deliver bank deposits to the bank, provided that such direct delivery of deposits does not exceed \$3,000 in coin and paper currency, and does not subject trial court employees to the hazard of robbery or compromise their safety, and if:
 - i. The bank does not furnish bank deposit messenger service; or
 - ii. An armored car service is not available or not economically justified.

The *Trial Court Financial Policies and Procedures Manual* (section 10.02) establishes uniform guidelines for trial court employees to use in receiving and accounting for payments received.

The *Trial Court Financial Policies and Procedures Manual* (section 10.02, subsection 6.4) states:

A two-person team should be assigned to open the mail, the two-person team should be rotated regularly, and mail should only be processed when both team members are present.

The development and implementation of internal control procedures will improve the integrity of financial reporting and help court staff more effectively comply with governing statutes and procedures.

Recommendation

We recommend that the court:

- Strengthen its controls over the cash-handling process; and
- Comply with the policies and procedures outlined in the *Trial Court Financial Policies and Procedures Manual*.

Court's Response

The Court agrees with the findings and will work on implementing a process and procedure in order to comply with Trial Court Financial Policies and Procedures Manual Section 13.01, subsection 6.4.2 for deposits and Section 10.02, subsection 6.4 for payments received through the mail.

FINDING 2— Inadequate internal controls over the review and approval process

During our review of the court's internal controls, we found that the court staff did not comply with procurement policies and procedures to ensure effective management controls over the procurement process.

We tested two procurement transactions initiated during the audit period. For the two transactions tested, court staff incorrectly keyed data into the Procurement Comparison Spreadsheet. Staff members transposed numbers and added tax to items that already had tax assessed, thereby changing the original numbers submitted by the bidding entity.

GC section 13401(a) (5) states:

Systems of internal control are necessarily dynamic and must be routinely monitored, continuously evaluated, and, where necessary, improved." The development and implementation of internal control procedures will improve the integrity of financial reporting and help court staff work more effectively in complying with governing statutes and procedures.

The *Trial Court Financial Policies and Procedures Manual* (section 1.03, subsection 6.4(d)) states:

Periodic (not less than monthly) reviews of applicable accounting records (relating to budgets, cash flow, timekeeping, payroll, procurement, cash collection, etc.) against original entries for accuracy.

Failure to properly review and approve procurement items could result in a material misstatement and the incorrect selection of the lowest bid.

Recommendation

We recommend the court review its bids for completeness and accuracy before final submission to the Judicial Council of California.

Court's Response

The Court agrees with the findings and will work on implementing a process and procedure where we have a proper review of bids for accuracy prior to any final submission.

**FINDING 3—
Reclassification of
unclaimed trust
accounts**

During our review of the aging of court's trust accounts, we found that the court did not reclassify \$433,982 of unclaimed trust accounts older than three years. GC section 68084.1(a) and (b) states that owners of trust accounts older than three years should be notified that if the owners do not claim the money in their accounts, it becomes the property of the court.

Our audit found that the following trust accounts did not comply with statutory requirements:

<u>Trust Account</u>	<u>Amount Older than June 30, 2014</u>
Civil Trust Interpleader	\$ 264,060
Civil Trust – Other	58,523
Jury Fees	89,898
Criminal Bail	18,820
Civil Trust Court Reporter Fees	2,281
Civil Trust Appeals Transcripts	100
Partial Payment of Fees	300
Total	<u>\$ 433,982</u>

GC section 68084.1(a) states:

A superior court holding in trust for the lawful owner, in a court bank account or in a court trust account in a county treasury, that remains unclaimed for three years, shall become the property of the superior court if, after published notice, the money is not claimed or no verified complaint is filed and served. Money representing restitution collected on behalf of victims that remains unclaimed for three years shall be deposited either into the State Restitution Fund or into the general fund of a county that administers a victim services program exclusively for the provision of victim services.

GC section 68084.1(b) states:

At any time after the expiration of the three-year, the executive officer of the superior court may cause a notice to be published once a week for two successive weeks in a newspaper of general circulation published in the county in which the court is located. The notice shall state the amount

of money, the fund in which it is held, and that it is proposed that the money will become the property of the court on a designated date not less than 45 days nor more than 60 days after the first publication of the notice.

The error occurred because the court does not have the necessary staff resources to maintain up-to-date notices for the trust accounts.

Recommendation

We recommend that the court establish and implement procedures to maintain up-to-date notices for all trust accounts.

Court's Response

The Court agrees with the findings and will work on implementing a process and procedure to review monies that are older than three years in our trust accounts and in accordance with Trial Court Financial Policies and Procedures Manual Section 15.03 Escheat.

**Attachment—
Court's Response to Audit Findings**



Superior Court of California
County of Sonoma

Arlene D. Junior
Court Executive Officer/Clerk of the Court/Jury Commissioner

ACCESS, SERVICE, JUSTICE

January 24, 2019

Jim L. Spano, Chief - Division of Audits
California State Controller
Division of Audits, Compliance Audits Bureau
3301 C Street, Suite 710
Sacramento, CA 95816

Dear Mr. Spano,

We are in receipt of Sonoma's preliminary final audit report. Please find our responses to the audit report's findings and recommendations below.

Finding 1 – Inadequate internal controls over cash handling process

The Court agrees with the findings and will work on implementing a process and procedure in order to comply with Trial Court Financial Policies and Procedures Manual Section 13.01, subsection 6.4.2 for deposits and Section 10.02, subsection 6.4 for payments received through the mail.

Finding 2 – Inadequate internal controls over the review and approval process

The Court agrees with the findings and will work on implementing a process and procedure where we have a proper review of bids for accuracy prior to any final submission.

Finding 3 – Reclassification of unclaimed trust accounts

The Court agrees with the findings and will work on implementing a process and procedure to review monies that are older than three years in our trust accounts and in accordance with Trial Court Financial Policies and Procedures Manual Section 15.03 Escheat.

Sincerely,

A handwritten signature in black ink, appearing to be "Arlene D. Junior".

Arlene D. Junior
Court Executive Officer

Hall of Justice
600 Administration Drive
Santa Rosa, CA 95403

Empire Annex Courthouse
3035 Cleveland Avenue
Santa Rosa, CA 95403

Civil and Family Law Courthouse
3055 Cleveland Avenue
Santa Rosa, CA 95403

Juvenile Justice Center
7425 Rancho Los Guilicos Road
Santa Rosa, CA 95409

**State Controller's Office
Division of Audits
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Sacramento, CA 94250**

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